

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVISIONS TO AFFILIATE REPORTING RULES [199 IAC 31]	DOCKET NO. RMU-05-3
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ORDER COMMENCING RULE MAKING

(Issued February 18, 2005)

Pursuant to Iowa Code §§ 17A.4, 476.1, 476.2, 476.73, 476.74, and 476.100 (2005), the Utilities Board (Board) proposes to adopt the rules attached hereto and incorporated herein by reference. These rules amend 199 IAC 31. The proposed amendments specify information to be reported to the Board by any incumbent local exchange carrier (ILEC) that serves customers in the same territory as a competitive local exchange carrier (CLEC) with which it is affiliated.

On November 29, 2004, the Board issued an order in Re: Qwest Communications Corporation, Docket No. TCU-03-13, approving Qwest Communications Corporation's (QCC) request to amend its approved application for a certificate of public convenience and necessity. QCC, a CLEC, asked to amend its certificate to expand its service territory to include the entire state of Iowa, including areas served by its affiliate, Qwest Corporation (Qwest), an ILEC.

The Consumer Advocate Division of the Department of Justice and the Iowa Association of Municipal Utilities objected to QCC's application. Generally, they were

concerned about how allowing a CLEC to provide service in the same territory as its affiliated ILEC would affect customers and competition.

The Board granted QCC's request, concluding that Iowa law contains sufficient safeguards to address the potential hazards of allowing a CLEC to enter the exchanges of its affiliated ILEC. However, the Board also concluded that it would need to monitor how this practice affects Iowa's telecommunications market and to do so it will need more information than it receives under existing affiliate reporting requirements. The Board stated in the "Order Approving Amendment to Approved Application" in Docket No. TCU-03-13 that it would commence a rule making to propose rules that will require the filing of information the Board will need for its oversight function.

The rules proposed in this proceeding amend the existing affiliate reporting rules in 199 IAC 31 to require an ILEC with an affiliated CLEC serving in the same territory to file all commercial agreements between the ILEC and the affiliated CLEC, including, but not limited to, agreements not otherwise included in and filed with the interconnection agreement between the parties. With access to this information, the Board will have some of the information required to compare the prices an ILEC charges non-affiliated CLECs for products and services with the prices the ILEC charges an affiliated CLEC for the same products and services. The remaining information (the agreements between the ILEC and the non-affiliated CLECs) can be provided by either party, if and when a comparison is required or appropriate.

The proposed amendments also add a requirement that ILECs supplement their annual filing with information about transactions with affiliated and non-affiliated CLECs. This information will allow the Board to identify potentially anticompetitive behavior resulting from an ILEC and its affiliated CLEC serving the same area.

IT IS THEREFORE ORDERED:

1. A rule making proceeding identified as Docket No. RMU-05-3 is commenced for purposes of receiving comments on the proposed amendments in the notice attached hereto and incorporated herein by reference in this order.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 18th day of February 2005.

UTILITIES DIVISION [199]

Notice of Intended Action

Pursuant to the authority of Iowa Code sections 17A.4, 476.1, 476.2, 476.73, 476.74, and 476.100, the Utilities Board (Board) gives notice that on February 18, 2005, the Board issued an order in Docket No. RMU-05-3, In re: Revisions to Affiliate Reporting Requirements [199 IAC 31], "Order Commencing Rule Making."

The proposed amendments revise 199 IAC 31, which contains utility affiliate filing requirements, by adding two new filing requirements. Under the amendment, an incumbent local exchange carrier (ILEC) that provides telecommunications service in the same service territory as a competitive local exchange carrier (CLEC) with which it is affiliated must file with the Board any commercial agreements made with its affiliated CLEC and must include in its annual filing information about certain transactions with both affiliated and non-affiliated CLECs.

The "Order Commencing Rule Making" contains a more thorough discussion of the reasons for this proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before April 5, 2005, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific

reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 476.73, 476.74, and 476.100.

The following amendments are proposed.

Item 1. Amend rule 199 — 31.3(476) by renumbering rules 199 — 31.4 to 31.8 as 31.5 to 31.9 and adopting new rule 31.4 as follows:

199—31.4 (476) Additional filing requirements for affiliated telecommunications service providers. In addition to information provided to or filed with the board pursuant to this chapter, any incumbent local exchange carrier (ILEC) that provides service in the same service territory as a competitive local exchange carrier (CLEC) with which it is affiliated shall file with the board the information specified in this rule. "Service territory" refers to the area defined by the applicable telephone exchange area boundary maps on file with the board.

31.4(1) Commercial agreements filed. An ILEC shall file with the board all commercial agreements between the ILEC and its affiliated CLEC as they are made. For purposes of this subrule, "commercial agreement" includes, but is not limited to, agreements not otherwise included in and filed with the interconnection agreement between the ILEC and its affiliated CLEC.

31.4(2) Supplement to annual filing. An ILEC shall include the following information as part of its annual filing pursuant to rule 199 — 31.3:

- a. The number of local numbers ported by the ILEC to non-affiliated CLECs.
- b. The number of local numbers ported by the ILEC to its affiliated CLEC.
- c. The number of unbundled network element loops (UNE-Ls) provided by the ILEC to non-affiliated CLECs.
- d. The number of UNE-Ls provided by the ILEC to its affiliated CLEC.
- e. The number of unbundled network element platforms (UNE-Ps), or their equivalent, provided by the ILEC to non-affiliated CLECs.
- f. The number of UNE-Ps, or their equivalent, provided by the ILEC to its affiliated CLEC.
- g. The number of resale access lines provided by the ILEC to non-affiliated CLECs.
- h. The number of resale access lines provided by the ILEC to its affiliated CLEC.
- i. The number of central office collocation sites provided by the ILEC to non-affiliated CLECs.
- j. The number of central office collocation sites provided by the ILEC to its affiliated CLEC.

February 18, 2005

/s/ Diane Munns
Diane Munns
Chairman